

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 8.6.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.12982 OF 2003

The Special Officer,
S-495, Krishnagiri Taluk Agricultural
Producers Cooperative Marketing Society Ltd.,
Pochampalli, Dharmapuri District,
rep. By its Special Officer,
M.Raja Petitioner

versus

1.The Deputy Commercial Tax Officer,
Dharapuram, Erode District
2.M/s.Selvanayaki Gin and Press Pvt. Ltd.,
rep. By its Managing Director
S.Natarajan Respondents
Dharapuram, Erode District.

Writ Petition filed under Art.226 of the Constitution of India praying for a Writ of Certiorari calling for the records relating to public auction notice in Na.Ka.175/2001 A3 dated 25.2.2003 on the file of the 1st respondent published in Dinamalar dated 26.2.2003 and quash the same.

For petitioner Mr.V.Elangovan

For respondents Mr.Manokaran Sundaram, A.G.P.

ORDER

The petitioner is a cooperative society and the challenge in this Writ Petition is to the auction notice issued by the first respondent for recovery of sales tax arrears from the second respondent.

2. The second respondent had borrowed funds from the petitioner society and defaulted in repayment. Therefore, the petitioner initiated proceedings under Section 90 of the Tamil Nadu Cooperative Societies Act, and obtained an award against

the second respondent for a sum of Rs.75,78,831/-, which award was executed in E.P.No.10 of 1999. The property owned by the second respondent stood transferred in favour of the petitioner society. That apart, State Bank of India is also said to have advanced loan to the second respondent and it has deposited the title deeds with the Bank. The first respondent had issued the impugned auction notice to sell the property to recover the sales tax arrears.

3. When the Writ Petition was entertained, an interim order was passed on 25.4.2003. The order reads as follows :-

"Public auction shall go on but the sale proceeds shall await the result of the Writ Petition since the petitioner claims to have prior claim over the property belonging to the second respondent."

4. The interim order was made absolute on 23.10.2003. By efflux of time, nothing survives for consideration at this juncture and none of the parties are able to report as to the present state of affairs. In any event, the auction proceedings were allowed to proceed but sales proceeds were directed not to be accepted. Therefore, the Writ Petition stands closed, leaving it open to the parties to claim their rights in the manner known to law. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1.The Deputy Commercial Tax Officer,
Dharapuram, Erode District'.

+1cc to the Special Government Pleader Sr.30850
+1cc to M/S.S.Doraisamy, Advocate Sr.30837

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srg 23/06/2016